

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

**IN RE:**

**CARLOS J. SOTO GONZALEZ  
XXX-XX-2572  
Debtor**

**CASE NO.: 19-04523 BKT**

**CHAPTER 13**

**OBJECTION TO MOTION FOR RULE 2004 PRODUCTION OF DOCUMENTS  
(DOCKET 58)**

**TO THE HONORABLE COURT:**

Now comes debtor through undersigned Attorney and respectfully ALLEGES, STATES and PRAYS:

- 1) Creditor, Brenda Perez, represented by sister counsel, Lyssette Morales Vidal, filed on March 5, 2020 (Docket 58), a Motion for Rule 2004 requesting a production of documents.
- 2) We object to the request on the following grounds:
  1. Fed. R. Bankr. P. 2004 establishes that the scope of examination relate to: the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge.
  2. There is no good cause<sup>1</sup> for the examination requested by creditor since a request for 2004 Exam is made to look for facts that may support a nondischargeability complaint and establish grounds for a challenge to the debtor's right to discharge. In the present case, creditor claim is a non-dischargeable debt pursuant to 11 U.S.C. § 523(a)(5) of the Bankruptcy Code. Also, Amended Schedule E/F filed on December 11, 2019 refers to creditors claim as a priority DSO Non Dischargeable Debt<sup>2</sup>.

<sup>1</sup> Good cause is established if the one seeking the Rule 2004 examination has shown that such an examination is reasonably necessary for the protection of its legitimate interests. *Boeing Airplane Co. v. Coggeshall*, 280 F.2d 654, 659 (D.C.Cir.1960).

<sup>2</sup> 11 U.S.C. § 101(14A) defines what a domestic support obligation is: (a) a debt owed to or recoverable by a spouse, former spouse, or child of a debtor or such child's parent, ...; (b) in the nature of alimony, maintenance, or support of such spouse, former spouse or child, without regard to whether such debt is expressly so designated; (c) established under a separation agreement, divorce decree or property settlement agreement, or an order of a court of record; and (d) not assigned other than for collection purposes.

A creditor must establish that there are "extraordinary circumstances" justifying examination of the debtor beyond the meeting of creditors in order to show good cause exists for a Rule 2004 examination. Absent a showing of "extraordinary circumstances," the bankruptcy court would not allow any discovery by a creditor after the meeting of creditors and before the filing of a complaint against the debtor. " In Re Hammond, 140 B.R. 197 (S.D. Ohio 1992).

3. Even if this Court determine that Rule 2004 examination is necessary for the protection of the examiner's legitimate interests, the bankruptcy court must balance the examiner's interests against the debtor's interest in avoiding the cost and burden of disclosure. *In re Drexel Burnham Lambert, Inc.*, 123 B.R. 702, 712 (Bankr.S.D.N.Y. 1991); *In re Texaco, Inc.*, 79 B.R. 551, 553 (Bankr.S.D.N.Y.1987).
4. The documents requested are unnecessary and the request is burdensome on debtor. The debtor's interest may in some cases warrant a limitation of the scope of the proposed examination. The production of documents refers to documents that debtor does not have like bank statements since 2014, credit card statements since 2014 and information of a corporation that belongs to debtors former spouse. We inform that debtor paystubs for the 6 months preceding the filing of the bankruptcy petition and income tax return for years 2017 and 2018 were sent to creditor in good faith on January 10, 2020.
5. A production of documents pursuant to Rule 2004 exam is not automatic. The person has to request it by filing a motion with the bankruptcy court and must have "just cause" (meaning, a good reason related to that person's claim) for requesting it. A creditor cannot use a 2004 Exam as a fishing expedition to benefit for another litigation outside the bankruptcy court. *In Re Washington Mut., Inc.*, 408 B.R. 45 (Bankr. D. Del. 2009), *In Re Enron Corp.*, 281 B.R. 836 (Bankr. S.D.N.Y. 2002). In the instant case, there will be no beneficial information for the bankruptcy estate and the information is being requested for the family case in State Court.

WHEREFORE, debtor humbly requests to this honorable Court that the Motion for Rule 2004 Production of Documents be denied.

**NOTICE UNDER L.B.R. 9013-1(h):** Within twenty one (21) days after service as evidenced by the certification, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

**CERTIFICATE OF SERVICE:** I hereby certify that on this date, I electronically filed the above document with the Clerk of the Court using an ECF/CM System which sends notification of such filing to ECF/CM user and by regular mail to the non ECF/CM.

In Bayamon, Puerto Rico, this March 18, 2020.

/s/ Michelle Rivera Colón  
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104-3

Case 19-04523-BKT7

District of Puerto Rico

Old San Juan

Wed Mar 18 04:31:51 AST 2020

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